

**Before the
Federal Communications Commission
Washington, D.C. 20554**

In the Matter of)	
)	
Request by AT&T Texas for Limited Modification)	
of the LATA Boundaries to Provide Expanded)	WC Docket No. 08-93
Local Calling Service (ELCS) Between the Tilden)	
Exchange and the Pleasanton Exchange)	
)	

MEMORANDUM OPINION AND ORDER

Adopted: August 20, 2008

Released: August 20, 2008

By the Acting Chief, Competition Policy Division:

I. INTRODUCTION

1. On June 6, 2008, AT&T Inc., on behalf of AT&T Texas (AT&T), pursuant to section 3(25) of the Communications Act of 1934, as amended (the Act),¹ filed a petition requesting a limited modification of the local access and transport area (LATA) boundary between the Tilden exchange, served by Valley Telephone Cooperative, Inc., and AT&T's Pleasanton exchange to provide two-way, non-optional expanded local calling service (ELCS).² The Public Utility Commission of Texas (Texas Commission) has already approved an expansion of the current ELCS serving these exchanges.³ We grant AT&T's petition for the reasons stated below.

¹ See 47 U.S.C. § 153(25). Section 3(25) of the Act defines a Local Access and Transport Area (LATA) as a contiguous geographic area (1) established prior to enactment of the 1996 Act by a Bell Operating Company (BOC) such that no exchange area includes points within more than one metropolitan statistical area, consolidated metropolitan statistical area, or state, except as expressly permitted under the AT&T Consent Decree; or (2) established or modified by a BOC after such date of enactment and approved by the Commission. *Id.*

² See Petition of AT&T Inc. for Limited Modification of LATA Boundaries to Provide ELCS Between the Tilden Exchange and the Pleasanton Exchange, WC Docket No. 08-93 (filed June 6, 2008) (AT&T Petition); *Pleading Cycle Established for Comments on AT&T's Request for Limited Modification of the LATA Boundary Between the Tilden and Pleasanton Exchanges to Provide Expanded Local Calling Service in the State of Texas*, WC Docket No. 08-93, Public Notice, DA 08-1482 (rel. Jun. 25, 2008). We note that both exchanges are in Texas. ELCS, also referred to as expanded area service (EAS), allows local telephone service rates to apply to nearby telephone exchanges, thus providing an expanded local calling area. The Tilden exchange is in the Corpus Christi LATA and has 402 access lines, and the Pleasanton exchange is in the San Antonio LATA and has 3,693 access lines. See AT&T Petition at 2.

³ See AT&T Petition at 2, Attach. A (Public Utility Commission of Texas, *Petition for Expanded Local Calling Service from the Tilden Exchange to the Exchange of Pleasanton*, Interim Order, Docket No. 35344 (rel. May 21, 2008) (*Texas Commission Order*)).

II. BACKGROUND

2. Requests for new ELCS routes are generally initiated by local subscribers.⁴ Although intraLATA ELCS routes can be ordered by a state commission,⁵ requests for interLATA ELCS routes fall within the Federal Communications Commission's (Commission's) exclusive jurisdiction pursuant to section 3(25)(B) of the Act.⁶ Applying a two-part test, the Commission will grant a request for a LATA boundary modification where: (1) the applicant proves that the requested LATA modification would provide a significant public benefit; and (2) granting the petition would not remove the BOC's incentive to receive authority to provide in-region, interLATA service pursuant to section 271 of the Act.⁷ The AT&T Petition proposes to establish two-way, non-optional ELCS, and is accompanied by an Order issued by the Texas Commission approving the ELCS request between the Tilden and Pleasanton exchanges and directing AT&T to petition for a modification of the LATA boundary to implement the ELCS route.⁸ No party filed comments on the AT&T Petition.⁹

III. DISCUSSION

3. We conclude that AT&T's petition satisfies the Commission's two-part test. Applying the first prong of the test, we find that AT&T has shown that a significant public interest benefit would result from the ELCS because a sufficient community of interest exists between the affected exchanges to justify treatment as a local calling area.¹⁰ In reaching this finding, we note that the ELCS service that AT&T proposes to offer between these exchanges¹¹ is the type of service this Commission has determined to be consistent with the public interest.¹² We also find it a persuasive indicator of a community of interest that the Texas Commission found that an ELCS route between the affected exchanges satisfied the state's geographic requirements, as well as community of interest criteria.¹³ We find, accordingly,

⁴ The Texas Commission found a sufficient community of interest to warrant ELCS and requested that AT&T file a request for a limited modification of the LATA boundary with the FCC. *Texas Commission Order* at 2.

⁵ See *United States v. Western Elec. Co.*, 569 F. Supp. 990, 995 (D.D.C. 1983) ("The distance at which a local call becomes a long distance toll call has been, and will continue to be, determined exclusively by the various state regulatory bodies.").

⁶ See *Application for Review and Petition for Reconsideration or Clarification of Declaratory Ruling Regarding US WEST Petitions to Consolidate LATAs in Minnesota and Arizona*, File No. NSD-L-97-6, Memorandum Opinion and Order, 14 FCC Rcd 14392, 14393-402, paras. 4-20 (1999).

⁷ 47 U.S.C. § 271; see *SBC Telecom, Inc. Petition for Modification of Certain LATA Boundaries in Ohio*, File No. NSD-L-00-25, Memorandum Opinion and Order, 18 FCC Rcd 26398, 26399-402, paras. 2, 6-8 (2003).

⁸ *Texas Commission Order* at 1-2.

⁹ The Commission sought comment on AT&T's petition on June 25, 2008. See *Pleading Cycle Established for Comments on AT&T's Request for Limited Modification of the LATA Boundary Between the Tilden and Pleasanton Exchanges to Provide Expanded Local Calling Service in the State of Texas*, WC Docket No. 08-93, Public Notice, 23 FCC Rcd 10011 (2008).

¹⁰ See *Petitions for Limited Modification of LATA Boundaries to Provide Expanded Local Calling Service (ELCS) at Various Locations*, CC Docket No. 96-159, Memorandum Opinion and Order, 12 FCC Rcd 10646, 10653, para. 14 (1997) (*July 1997 LATA Order*).

¹¹ AT&T Petition at 1-2.

¹² See *July 1997 LATA Order*, 12 FCC Rcd at 10654-56, paras. 18-19.

¹³ *Texas Commission Order* at 2 (stating that Tilden has a community of interest with the Pleasanton exchange as it is the nearest larger city in the 40-mile radius containing intermediate medical clinics and business resources). AT&T also states that 85.98% of Tilden customers returning ballots voted in favor of ELCS to Pleasanton. AT&T Petition at 2.

that the petition is based on a significant community of interest, and thus satisfies the first prong of the Commission's two-part test.

4. AT&T also satisfies the second prong of the two-part test because it has already opened its market to competition in Texas, and the Commission has thus granted it authority under section 271 to offer long distance service in that state.¹⁴ Thus, granting the requested modification has no bearing on AT&T's incentive to receive such authority. Moreover, we conclude that the LATA boundary modifications would have a minimal effect upon AT&T's incentives because modification of the LATA boundary would affect only a small number of access lines.¹⁵ As a result, granting AT&T's petition serves the public interest by permitting minor LATA modifications where such modifications are necessary to meet the needs of local subscribers. Accordingly, we approve AT&T's petition for limited LATA boundary modifications.

5. We grant this relief solely for the limited purpose of allowing AT&T to provide ELCS between specific exchanges or geographic areas identified in this request. The LATA boundary is not modified to permit AT&T to offer any other type of service, including calls that originate or terminate outside the specified areas. Thus, two-way, non-optional ELCS between the specified exchanges will be treated as intraLATA service.

IV. ORDERING CLAUSE

6. Accordingly, IT IS ORDERED, pursuant to sections 3(25) and 4(i) of the Communications Act of 1934, as amended, 47 U.S.C. §§ 153(25), 154(i), and authority delegated by sections 0.91 and 0.291 of the Commission's rules, 47 C.F.R. §§ 0.91, 0.291, that the request of AT&T for a limited modification of LATA boundaries for the limited purpose of providing two-way, traditional, non-optional ELCS between the specific locations in Texas, as identified in WC Docket No. 08-93, IS APPROVED.

FEDERAL COMMUNICATIONS COMMISSION

Tim A. Stelzig
Acting Chief
Competition Policy Division
Wireline Competition Bureau

¹⁴ See *Application by SBC Communications Inc., Southwestern Bell Telephone Company, and Southwestern Bell Communications Services, Inc. d/b/a Southwestern Bell Long Distance Pursuant to Section 271 of the Telecommunications Act of 1996 to Provide In-Region, InterLATA Services in Texas*, CC Docket No. 00-65, Memorandum Opinion and Order, 15 FCC Rcd 18354 (2000).

¹⁵ For the purposes of ELCS petitions, we generally consider the number of access lines from customers in the smaller exchange who seek to reach businesses and services in the other exchange because the smaller exchange usually generates the majority of calls between the two exchanges. See *Southwestern Bell Petitions for Limited Modifications of LATA Boundaries to Provide Expanded Local Calling Service (ELCS)*, WC Docket No. 02-134, Memorandum Opinion and Order, 17 FCC Rcd 25540 (2002). Based upon the number of access lines in the Tilden exchange (402 access lines), the LATA boundary modification would affect only a small number of access lines. See AT&T Petition at 2.